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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-194798

DATE: January 23, 1980

MATTER OF: Geological Survey inspectors'  
lunch expenses

*ASCD 2/15*

DIGEST: Employees, who inspect offshore oil drilling rigs must pay for their luncheon meals although due to unusual conditions the employees purchase meals from private caterers at rigs at whatever price is charged. In the absence of specific statutory authority or exigent circumstances, Government payment of meals for employees from appropriated funds is prohibited. See 53 Comp. Gen. 71 (1973).

We are asked to decide if employees of the Department of the Interior, Geological Survey, may have the Government pay for their lunches due to unusual working conditions. We hold that the employees must pay for their lunches as Government payment of meals from appropriated funds is prohibited in the absence of specific statutory authority or exigent circumstances involving a threat to human life or Government property.

Mr. Posey B. Howell, Chief, Branch of Financial Management of the Department of the Interior, Geological Survey, presented the question for resolution as it relates to certain Geological Survey oil rig inspectors stationed in the Gulf of Mexico area.

The relevant facts as stated by Mr. Howell are:

"The U. S. Geological Survey is responsible for insuring that petroleum drilling and production operations on the Federally-leased lands of the Gulf of Mexico Outer Continental Shelf are performed in accordance with applicable laws and regulations. As a part of this responsibility, the USGS performs inspections of the drilling rigs and production facilities, carried out by

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inspection teams comprised of USGS engineering technicians. The inspection operation uses each of ten helicopters every day, weather permitting, 365 days a year to carry one or more USGS inspection teams offshore. The helicopter flights may be accomplished from beginning daylight to one-half hour before sunset. The daily inspection trips are usually completed within 8 to 10 hours and over roundtrip distances of as much as 700 miles or as little as 150 miles. Oil company or operator personnel who operate the production facilities and drilling rigs that are inspected usually live offshore for alternating seven day periods. While offshore, their room and meals are furnished by the operator at no charge. While some platform operators conduct their own food service, most contract out to food catering companies who specialize in offshore feeding.

"The inspection trips described above almost always span the noon lunch period. During the lunch period, USGS inspection personnel have no choice but to obtain meals on site from the platform operator or caterer. The only other meal possibility is a lunch and beverage brought from the employee's home, an option which has proven unacceptable for the following reasons:

- "- lack of proper refrigeration at some inspection sites.
- "- risk of contamination for food placed in the helicopter cargo compartment due to excessive heat (120° summer), fuel or lubricant leakage, and wetness/dampness of foul weather.
- "- potential safety hazards resulting from unsecured objects (lunch boxes,

thermos bottles, canned drinks, etc.)  
in the passenger compartment.

"As a result, these USGS employees obtain noon meals from the operators or caterers, there by incurring meal expenses which we believe are excessive. The cost of lunches provided offshore ranges from about \$3.50 to \$7.00 per meal served. Meal costs are usually standard on the various platforms, and the employee is not able to select or choose from meals ranging in price. The situation presents an unusual financial hardship on the employees involved, most of whom are in the GS-5 through GS-10 salary range."

Mr. Howell indicates that the use of a per diem allowance was considered and rejected because the employees' travel did not satisfy the requirement in paragraph 1-7.6d of the Federal Travel Regulations (FTR) FPMR 101-7 (May 1973) which states that:

"\* \* \* per diem shall not be allowed when the travel period is 10 hours or less during the same calendar day, except when the travel period is 6 hours or more and begins before 6 a.m. or terminates after 8 p.m."

Consideration was given to payment of an allowance based on duty at a remote worksite pursuant to 5 U.S.C. § 5942 (1976); however, this was rejected because the employees failed to satisfy the requirements of the implementing regulations contained in 44 Fed. Reg. 20704 (April 6, 1979) because the employees' official duty site was onshore (not at the platforms) and because the Government provided transportation to the worksites.

Both of the above analyses by Mr. Howell are legally correct.

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Finally, Mr. Howell specifically asks whether employees could be reimbursed meal costs under the provision of paragraph 1-8.1c, FTR, as amended April 29, 1977, which states:

"Unusual circumstances of the travel assignment. Actual subsistence expense reimbursement may be authorized or approved for specific travel assignments within and outside the conterminous United States when it is determined that maximum per diem allowance (see 1-7.2) would be inadequate due to the unusual circumstances of the travel assignment."

While Mr. Howell recognizes that the above regulation was not intended for the type of situation here, he does set forth a justification for use of this regulation. We need not discuss this justification as the regulation is not for application in the instant situation.

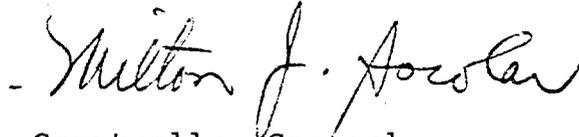
Actual subsistence expenses are only payable when an employee is entitled to per diem and the maximum per diem would be inadequate to cover the employee's expense of travel. FTR, FPMR, para. 1-8.1a as amended April 29, 1977. Therefore since the employees are not entitled to per diem because of the "10-hour" rule discussed previously they are likewise precluded from any entitlement to actual subsistence expenses.

Although Mr. Howell only asked us to answer the specific question regarding actual subsistence expenses, we have examined other possible bases for paying the employees' meal expenses. Our examination reveals that "it is a well established rule that the Government may not pay the subsistence expenses of or furnish free food to civilian employees from appropriated funds without specific authority of law." 53 Comp. Gen. 71 (1973), and B-185159, December 10, 1975. This rule applies even though the employees may have been working under unusual circumstances. The only exception to the above rule is when food expenses are incurred during an extreme emergency involving danger to human life or threat to

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Government property. See 53 Comp. Gen. 71, supra, where food was provided to Federal protective officers of the General Services Administration who were assembled in readiness to reoccupy a Federal building which had been forcefully occupied; and B-189003, July 5, 1977, where food was purchased for FBI employees unable to leave the office due to a blizzard.

Accordingly, the lunch expenses of the employees may not be paid by the Government.

A handwritten signature in cursive script, reading "Milton J. Fowler".

For the Comptroller General  
of the United States